# LOCAL RULES OF CIVIL PROCEDURE AND RULES OF DECORUM

The District Courts of Travis County, Texas

Including all updates as of September 1, 2002

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#### **GENERAL ORGANIZATION**

All of the District Courts of Travis County (District Courts) are courts of general jurisdiction, and the Judges thereof will hear and determine civil, criminal, and juvenile cases as required. As permitted by Rule 330(e), Texas Rules of Civil Procedure, and Articles 199 and 199a, Texas Revised Civil Statutes, the District Courts have established a Central Settings Docket that will control all civil matters set for 9:00 a.m. or 2:00 p.m. on Monday through Thursday, or for 9:00 a.m. on Friday.

All such matters will be assigned from the Central Settings Docket to the Judges as necessary or desirable for the orderly dispatch of the business of all the Courts, without considering whether any case is being assigned to the Judge of the Court in which it was filed or is pending.

- 1.2 By majority vote the Judges of the District Courts of Travis County will elect their Presiding Judge, who will serve at their pleasure and who shall have the general administrative responsibility and authority necessary for the proper functioning of the District Courts.
- 1.3 The Central Settings Docket and an Associate Judges' Settings Docket, for certain settings before Associate Judges in family law cases as provided by Local Rule 6.3, will be administered by the Administrator of the District Courts of Travis County (Court Administrator) under the supervision of the Presiding Judge, who may adjust the administration of said dockets from time to time as required for the orderly disposition of cases.

1.4 The Court Administrator will maintain a Court Administrator's Mailing List for mailing to attorneys schedules designating jury and non-jury weeks, amendments to these Rules, and other communications.

Each attorney must determine whether his or her name and address are correctly listed and must notify the Court Administrator of any error and any change.

Setting notices will not be mailed by the Court Administrator. Attorneys must give notice of settings in the manner and within the time provided by the Texas Rules of Civil Procedure and Local Rule 2.4.

1.5 Every pleading filed to initiate a new action that is required by law to be filed in a particular District Court must state the correct name of that Court and the law and circumstances that require the action to be filed in that Court. Upon request, the Clerk will file each such case in the Court designated by the pleading.

The District Clerk will file all other new cases by distributing them equally, on a rotating basis, among the District Courts.

The fact that a case is filed in a particular Court will not be considered in assigning the case to a Judge for any hearing or for trial.

#### THE SETTING OF CASES

- **2.1** A schedule that can be obtained from the Court Administrator will designate jury weeks and non-jury weeks.
- 2.2 All jury and all non-jury matters on the Central Settings Docket will be set by the Court Administrator upon written or oral request of any party, and will be placed on the docket for each week, day, or half-day in the order in which such requests are received.

Judges should not be requested to sign orders setting cases except when a show cause order is necessary, or when some rule of law requires that an order for a setting be signed by a Judge and entered in the minutes by the Clerk.

- 2.3 Each jury case will be set for 9:00 a.m. on Monday of a jury week and will be subject to trial during that week only.
- 2.4 Each request for a non-jury setting pursuant to this Rule or Local Rule 2.5 shall include an estimate of the hearing time required for the matter being set, and the notice of such setting that the party requesting the setting gives to other parties shall state said time estimate.
  - (a) Each non-jury matter that will require more than three hours will be set for 9:00 a.m. on Monday of a non-jury week and will be subject to trial or hearing at any time before noon on Thursday of that week, but not thereafter. In the event of a court holiday this docket will be set and start the first workday of the week.

- (b) Each non-jury matter that will require three hours or less may be set for either 9:00 a.m. or 2:00 p.m. on any day during a non-jury week except Friday. Such a matter will be subject to trial or hearing at any time during the half day in which it is set, but not thereafter.
- **2.5** The following non-jury matters may be set on Thursdays of jury weeks:
  - (a) Matters involving temporary custody of children and habeas corpus hearings involving children;
  - (b) Any matter that is required by law to be determined within a fixed time period that would require if an immediate hearing were not held:
  - (c) Any matter requiring 30 minutes or less.

Only matters that will require one day or less may be set pursuant to subparagraphs (a) and (b); such matters will be given preference over those set pursuant to subparagraph (c).

**2.6** Upon the suggestion of any Judge, or after conference with the attorneys for all of the parties, the Presiding Judge may assign all or part of a case to a particular Judge.

A setting before a particular Judge is not a preferential setting unless such setting is made pursuant to Local Rule 2.7.

2.7 The District Judges have concluded that because of the delays now being experienced by parties seeking jury trials it is not practicable to grant preferential settings for civil jury cases, and there will be no such settings.

A request for a preferential setting of a non-jury matter must be presented to a Judge upon notice and hearing, and will be granted only if justified by the exigencies of the circumstances or the law. No more than two non-jury preferential settings will be granted for any 9:00 a.m. or 2:00 p.m. docket.

After the announcement docket, no request should be made for a preferential setting for the following week.

A preferential setting is not a setting before the Judge who granted it, or before any particular Judge, unless the matter is assigned by the Presiding Judge pursuant to Local Rule 2.6.

- 2.8 In matters on the Central Settings Docket that have preferential settings or settings before particular Judges, attorneys must observe all docket call announcement Rules.
- **2.9** The Court Administrator is not authorized to grant any of the settings described by this Rule.

A request for any of the following settings must be presented to a Judge upon notice and hearing:

- (a) A setting for trial on the merits if the request for the setting is made prior to the appearance day of any defendant named by the plaintiff's pleading in the record of the cause at the time the request is made;
- (b) A setting of any family law case for jury trial on a date beyond 60 days from the date on which the setting request is made, unless an agreement signed by all parties or their attorneys is presented to the Court Administrator when the setting is requested;
- (c) A setting for a jury trial if a non-jury trial setting of the same case has been obtained after appearance day and before a jury fee was paid, unless an agreement to strike the non-jury setting, signed by all parties or their attorneys, is presented to the Court Administrator when the jury setting is requested;
- (d) More than one setting of any matter.

- 2.10 If a party's request for more than one setting is granted, that party shall immediately deliver to the Court Administrator a written memorandum signed by the Judge and stating the cause number and style of the case and listing all setting dates. Thereafter, when the matter is reached for trial or hearing, said party shall immediately deliver to the Court Administrator a written memorandum listing all settings that should be removed from the Central Settings Docket.
- 2.11 If the Court Administrator determines that any setting has been obtained in violation of these Rules, the parties will be notified, and the Court Administrator is authorized to strike the setting.

#### ANNOUNCEMENT DOCKET AND THE ASSIGNMENT OF CASES

#### SETTINGS BEFORE THE DISTRICT COURT

- **3.1** An announcement docket will be held each week for cases set the following week.
- 3.2 Announcements will be taken beginning Monday at 8:00 a.m. ending Wednesday at 5:00 p.m. Attorneys for either side with offices in Travis County shall appear in the Court Administrator's office to give their announcement of readiness and an updated time estimate (time needed for the entire hearing, not just one side).

Any time estimate controversy that affects the assignment of a matter will be heard by a Judge on Thursday at 9:00 a.m.

Any party who contests the estimate given with notice of setting as required by Local Rule 2.4 shall give timely notice to all parties that such controversy will be heard on Thursday at 9:00 a.m.

Attorneys with no office in Travis County may announce by telephone to the Court Administrator's office during the same time period set out in the first paragraph of this Rule. The telephone number is (512) 854-9095.

As stated in Local Rule 2.8, a setting before a particular Judge or a preferential setting does not excuse the parties from this Rule, and failure to announce will result in loss of the setting.

**3.3** A failure of a party to make an announcement will constitute an announcement of ready.

- 3.4 Cases set, but in which no attorney has announced, will be moved to the bottom of the list of cases set for the same time and will be heard only after all announced cases are heard and only if time permits.
- 3.5 Motions for continuance will be heard each Thursday at 9:00 a.m. This Rule does not relieve a movant of the burden of delivering a copy of the motion and giving notice of the hearing in the manner and within the time provided by the Texas Rules of Civil Procedure.

The name and location of the Judge designated to hear motions for continuance will be posted on the bulletin board outside the District Clerk's office.

The party presenting the motion for continuance must obtain the file and docket sheet from the District Clerk's office and deliver them to the Judge designated to hear motions for continuance.

No setting will be accepted after the Friday proceeding the announcement period except by agreement of all parties unless it is governed by a statute requiring it be heard within a certain time frame.

3.6 A matter may be removed from the Central Settings Docket only upon notice and hearing, unless written notice of an agreement to strike is presented to the Court Administrator before the deadline for entering an announcement as set out in Local Rule 3.2.

Cases set for trial after notice of intent to dismiss for want of prosecution may not be removed from the Central Settings Docket by agreement.

3.7 All jury cases and all non-jury matters that will require more than three hours will be called at 9:00 a.m. on Monday of the week in which they are set. Cases not assigned to Judges at that time will be assigned at any time before noon on Thursday of that week as Judges become available, and the parties must be ready to begin the trial or hearing when each case is reached.

The Court Administrator may excuse parties whose cases cannot be reached.

- 3.8 Non-jury matters that will require three hours or less will not be called on Monday. Instead, shortly before such matters are set, assignments to particular Judges will be posted on the bulletin board outside of the District Clerk's office on the third floor of the Travis County Courthouse.
- **3.9** By Thursday at noon, the Court Administrator shall post a list of cases set the following week, which will include the order in which the cases will be heard.
- all or part of any case may be assigned for trial or hearing to any Judge eligible for assignment under the Court Administration Act. Before noon on the Thursday preceding the setting, the Court Administrator will post, on the bulletin board outside of the District Clerk's office on the third floor of the Courthouse, a notice naming Judges who will be so assigned for the week. An objection to the assignment of one of said Judges to any case set for the following week will not be timely unless a file-marked objection is delivered to the Court Administrator before 5:00 p.m. on the Thursday preceding the setting. After the receipt of such an objection, the Court Administrator will not assign the case to the Judge named by an objection.

Any hearing necessitated by an objection will be conducted by a local Judge before the assignment of a case to a Visiting Judge.

No such objection will be urged before or ruled upon by any Visiting Judge assigned by virtue of this Act.

#### SETTINGS BEFORE THE ASSOCIATE JUDGES

- 3.11 Rule 3.1 through 3.10 apply to the announcement docket, the setting and hearing of motions for continuance and the assignment of cases on the Associate Judges' settings docket, unless otherwise provided herein.
  - (a) An announcement docket will be held on Friday of each week for the Associate Judges' docket of longer-than-threehour cases set for the following week. Announcements will be taken on Friday beginning at 8:00 a.m. and ending at 11:00 a.m. Attorneys for either side with offices in Travis County shall appear in the Court Administrator's office to give their announcement of readiness and an updated estimate of time needed for the entirety of the hearing. Attorneys with no office in Travis County may announce by telephone to the Court Administrator's office during the same time periods. The telephone number is (512) 854-9095. By Friday at noon, the Court Administrator shall post a list of cases set on the Associate Judges' longer-than-three hour docket for the following week that will include the order in which the cases will be heard. Cases set, but in which no attorney has announced will be moved to the bottom of the list of cases set for the same time and will be heard only after all announced cases are heard and only if time permits.

- (b) Any time estimate controversy that affects the assignment of a matter will be heard by an Associate Judge on Friday at 11:45 a.m. following the announcement docket.
- (c) Any party who contests the time estimate given with notice of setting that is required by Local Rule 2.4 shall give timely notice to all parties that such controversy will be heard on Friday at 11:45 a.m.
- (d) Motions for continuance of a case set on the Associate Judges' docket will be heard each Friday at 11:45 a.m.
- (e) All cases set on the Associate Judges' will be called at the time and day on which they are set.
- Any longer-than- three-hour case not assigned to an Associate Judge at the time the case is called may be assigned at any time before 5:00 p.m. on Thursday of the same week as an Associate Judge becomes available, and the parties must be ready to begin the trial or hearing when reached.

#### MATTERS PRELIMINARY TO TRIALS ON THE MERITS

**4.1** Except for motions in limine and motions for continuance based on new circumstances, all exceptions and all pre-trial motions and pleas in every case shall be presented and heard before the announcement docket begins.

All such exceptions, motions, and pleas not presented and heard within the time provided by this Rule will be deemed waived except upon a showing of good cause for failure to comply with this Rule.

**4.2** Before the commencement of the trial, motions in limine not previously heard will be heard by the Judge to whom the case is assigned.

Motions in limine should be served before the Announcement Docket.

This Rule does not relieve a movant of the burden of delivering a copy of the motion in the manner and within the time provided by the Texas Rules of Civil Procedure.

- **4.3** (a) Notwithstanding the filing provisions of the Texas Rules of Civil Procedure, the following matters shall not be filed with the Clerk:
  - requests for production or inspection and responses, under Texas Rules of Civil Procedure 167;
  - (2) interrogatories and answers, under Texas

    Rules of Civil Procedure 168;
  - (3) notices of depositions under Texas Rules of Civil Procedure 200, 201 and 208;

- (4) business records accompanied by affidavit under Texas Rules of Civil Evidence 902(10), but the affidavit shall be filed.
- (b) The exceptions to this rule are as follows:
  - (1) the court may order the materials to be filed;
  - (2) a party may file materials necessary for the determination of a motion for summary judgment, for any other pretrial motion, or for any response or reply to such a motion;
  - (3) a party may file materials necessary for a proceeding in an appellate court.
- (c) The party responsible for the service of such materials shall retain the original or an exact copy while the case and any related appellate proceedings are pending, and for at one year thereafter, unless a longer retention is otherwise required.
- (d) This rule pertains only to provisions for court filings; all matters specified in Rule 4.3(a) shall be served as required by the Texas Rules of Civil Procedure.

#### THE ORDER OF BUSINESS ON FRIDAYS

5.1 The District Courts have set aside Friday mornings to hear certain important matters as herein provided.

Announcements of all matters set on each Friday morning will be taken beginning Monday at 8:00 a.m. and ending Wednesday at 5:00 p.m. immediately preceding the Friday morning on which they are set.

Assignments of Friday morning matters to available Judges will be posted before 9:00 a.m. Friday outside of the District Clerk's office on the third floor of the Courthouse.

At a Friday morning hearing a Judge may limit the amount of time allocated to each party.

- **5.2** Except as otherwise authorized by a Judge, the following matters may be set on Friday mornings of jury or non-jury weeks:
  - (a) *De novo* hearings from findings and recommendations of an Associate Judge that will require three hours or less:
  - (b) A hearing that results from a Judge having granted a writ of *habeas corpus* involving a child may be set for a Friday morning, at the discretion of the Judge, and will be assigned to that same Judge.
  - (c) All family law contempt cases in which the movant is represented by a private attorney that will require one hour or less.
  - (d) Any family law matter not required to be heard originally by an Associate
    - Judge that requires fifteen minutes or less:

(e) Any other contested or uncontested matter that will require 15 minutes or less.

Matters set pursuant to subparagraphs (a), (b) and (c) will be given preference over those set pursuant to subparagraphs (d) and (e). Matters set pursuant to subparagraphs (a), (b), (c), and (d) may be set at other days and times available on the Central Settings Docket but will not be given preference over other settings on those other days and times.

#### PROCEEDINGS BEFORE ASSOCIATE JUDGES IN FAMILY LAW CASES

- Pursuant to TEX.FAM.CODE ANN. Chapter 201, the District Courts have appointed Associate Judges to hear certain matters specified by these Rules and by these Rules do refer such matters to the Associate Judges.
- **6.2** The following will be heard originally by an Associate Judge:
  - (a) All matters relating to suits over which the District Courts have jurisdiction under TEX.FAM.CODE.ANN. Titles 1,4, and 5 except:
    - (1) matters on the uncontested docket:
    - (2) contested trials on the merits to terminate parental rights:
    - (3) contested trials on the merits that will require more than three hours, unless the parties in writing or on the record (i) consent to having the trial heard by an Associate Judge and (ii) waive the right to request a *de novo* hearing before a District Judge:
    - (4) proceedings in which Child Protective Services is a party:
    - (5) pretrial motions that, if granted, could have a dispositive effect on issues in the case e.g., pleas in abatement, special appearance, and summary judgment unless the parties in writing or on the record
      - (i) consent to having the motion heard by an Associate Judge and
      - (ii) waive the right to request a *de novo* hearing before a District Judge:

- (6) Motions for discovery sanctions with respect to any discovery issue where an order to compel has already been recommended by an Associate Judge; and
- (b) Any other matter referred to an Associate Judge by a Judge (i) if the parties consent in writing or on the record or (ii) as otherwise provided by law.
- (c) Adoptions and petitions to recognize foreign adoptions may not be heard at the uncontested docket. Uncontested adoptions and petitions to recognize foreign adoptions shall be set on the Associate Judges' settings docket.
- **6.3** All matters for which the Domestic Relations Office has responsibility shall be set by the Domestic Relations Office.
- 6.4 All other matters to be heard originally by an Associate Judge shall be set by the Court Administrator on the Associate Judges' settings docket. The Court Administrator may assign to another Associate Judge or to an available Judge any matter that cannot be reached by an Associate Judge at the time the case is called for hearing. An Associate Judge may refer any matter to the Court Administrator for a setting before a Judge. An Associate Judge will usually refer any matter requiring a lengthy hearing, unless the parties in writing or on the record waive their right to request a de novo hearing before a District Judge.

- G.5 (a) A party may file an objection to the assignment of an Associate Judge to hear any trial on the merits. A trial on the merits is any trial in which a party seeks a final adjudication from which an appeal may be taken to a Court of Appeals. The objection must be in writing. The time for filing an objection pursuant to TEX.FAM.CODE.ANN. § 201.005 shall be:
  - (1) on or before ten days from receipt of a notice of setting on the Associate Judges' docket:
  - (2) on or before the day a setting before a Judge is requested by the party seeking a hearing; or
  - (3) on or before ten days from receipt of notice that a Judge referred a specific case to an Associate Judge for a trial on the merits.
  - (b) A person filing an objection shall deliver a copy of the objection to all parties and to the Court Administrator on the same day the objection is filed with the District Clerk. The Court Administrator shall remove any trial on the merits from the Associate Judges' docket after an objection is filed.
  - (c) A party may file a motion to have any other matter heard originally before a Judge instead of an Associate Judge. The motion must be in writing and must specify the grounds in support of the motion. The party filing the motion must set the motion for hearing by a Judge with notice to all parties as required by the applicable rules of civil procedure.
- 6.6 Matters set before an Associate Judge will be set on the days and times reflected on the docket schedule filed with the Court Administrator. Notice of the locations of the docket calls and hearings will be posted each day on the bulletin board outside of the District Clerk's office on the third floor of the courthouse.

- 6.7 The fact that the rules require that certain matters be heard originally by an Associate Judge does not affect a party's rights to have a Judge grant or extend a temporary restraining order or an *ex parte* protective order and does not prevent a temporary restraining order or an *ex parte* protective order from expiring. Until a Judge signs an order concerning the findings and recommendations of an Associate Judge, such findings and recommendations do not affect an existing temporary restraining order or *ex parte* protective order or the expiration or extension of such an order.
- At the conclusion of any hearing conducted by an Associate Judge, the Associate Judge shall make findings, conclusions, and recommendations by making a written, signed and dated notation on the docket sheet of the case or on a separate document that will be placed in the file folder and noted on the docket sheet. The Associate Judge shall give to the parties participating in the hearing notice of the substance of the findings, conclusions, and recommendations. The notice may be given in open court or may be given by letter sent by certified mail return receipt requested. If the notice is by certified mail, the Associate Judge shall certify the date of mailing, and the notice is deemed to have been given on the third day after the date of mailing. THE TIME FOR FILING A REQUEST FOR A DE NOVO HEARING BEFORE A JUDGE BEGINS ON THE FIRST DAY AFTER THIS NOTICE IS GIVEN OR DEEMED TO HAVE BEEN GIVEN.
- 6.9 The Associate Judge shall give notice to all parties of the right to request a *de novo* hearing before a Judge. This notice shall be given in the Associate Judge's written report and by posting a copy of TEX.FAM.CODE ANN §§ 201.001-201.017 inside or outside the Associate Judge's courtroom.

- 6.10 After a hearing is concluded, the Associate Judge shall send to a Judge a written, signed report containing the Associate Judge's findings and recommendations. The report may be in the form of a written order prepared for a Judge's signature and accompanied by the Associate Judge's signed and dated statement that the order as prepared is recommended. The Judge shall promptly approve or disapprove the report in its entirety or set the matter for a hearing before a Judge.
- 6.11 Any party is entitled to a *de novo* hearing before a Judge if not later than the third day after the Associate Judge gives notice of his or her findings, conclusions, and recommendations, the party files with the District Clerk a written request for a *de novo* hearing. The right to a *de novo* hearing exists even if within said three-day period a Judge has signed an order approving the findings and recommendation of the Associate Judge.
- 6.12 Except for orders providing for incarceration or for the appointment of a receiver, a request for a *de novo* hearing does not stay, suspend, or affect the enforcement of an order of the Associate Judge pursuant to TEX.FAM.CODE. ANN § 201.013 pending a hearing before a District Judge on any appeal from the Associate Judge's report. A request for a *de novo* hearing does not stay, suspend, or prevent enforcement or contempt proceedings brought pursuant to an order requiring that the parties comply with an Associate Judge's decisions and recommendations pending a *de novo* hearing.

- **6.13** A request for a *de novo* hearing must state with particularity the specific findings conclusions and recommendations of the Associate Judge that are the subject of objections or the issue is deemed waived. The Judge to whom the *de novo* request is assigned for hearing may determine whether to consider other issues.
- 6.14 Any person requesting a *de novo* hearing before a Judge shall also deliver a copy of the request to the Court Administrator on the same day that the request is filed with the District Clerk. The Court Administrator shall set the matter for hearing on the Central Settings Docket on the first available date as determined by the Court Administrator after seven days, but no later than thirty days, from the date the initial request was filed.

#### PRE-TRIAL PROCEDURE IN FAMILY LAW CASES

#### 7.1 STANDING PRE-TRIAL AND DISCOVERY ORDER

The District Courts have determined that the following procedures are necessary for the orderly disposition of certain family law matters, and pursuant to Rule 166, Texas Rules of Civil Procedure, it is hereby ordered that this Chapter 7 shall constitute a standing pre-trial and discovery order in all divorce cases, suits affecting the parent-child relationship, and suits to modify orders affecting the parent-child relationship. The term "party" as used below includes a party's counsel of record.

#### 7.2 PRE-TRIAL PROCEDURE BEFORE A FINAL TRIAL ON THE MERITS

Before the final trial on the merits in any divorce suit, suit affecting the parent-child relationship, or suit to modify an order affecting the parent-child relationship each party shall prepare and deliver pre-trial forms as follows:

# (1) FORMS REQUIRED DEPEND ON TYPE OF SUIT AND ISSUE AT TRIAL

- (a) In a divorce suit, each party shall prepare and deliver a Proposed Property Division in the form prescribed by these rules, fully completed and signed by the party, or a single agreed Proposed Property Division, signed by both parties.
- (b) In any suit requiring a determination of child support or spousal maintenance, each party shall prepare and deliver a Proposed Support Decision and information in the form prescribed by these rules, fully completed and signed by the party, or a single agreed Proposed Support Decision and Information, signed by both parties.

(c) In any suit in which a Proposed Property Division or Proposed Support Decision and Information is required, then each party shall also prepare and deliver a Proposed Disposition of Other Issues, which shall state separately in brief complete sentences each trial decision that is sought by the party that is not covered by the Proposed Property Decision or Proposed Support Decision and Information.

#### (2) TO WHOM FORMS ARE DELIVERED

Each party shall deliver the required forms to the opposing party and to the Court Administrator.

#### (3) WHEN FORMS ARE DELIVERED

Each party shall deliver the required forms before 1:30 p.m. on the Thursday that is ten days prior to the Monday of the week of any trial on the merits.

# 7.3 PRE-TRIAL PROCEDURE BEFORE A TEMPORARY OR INTERIM ORDERS HEARING

Before any hearing on temporary or interim orders in any divorce suit, suit affecting the parent-child relationship, or suit to modify an order affecting the parent-child relationship, each party shall prepare and deliver pre-trial forms as follows:

## (1) FORMS REQUIRED DEPENDS ON ISSUES AT HEARING

In a hearing to determine child support or spousal maintenance, each party shall prepare and deliver a Proposed Support Decision and Information in the form prescribed by these rules, fully completed, and signed by the party.

#### (2) TO WHOM FORM IS DELIVERED

Each party shall deliver the required form to the opposing party and to the Judge hearing the case.

#### (3) WHEN FORM IS DELIVERED

Each party shall deliver the required form before the court calls the case for hearing.

# 7.4 NOT REQUIRED IN DRO, DPRS, AG OR COUNTY ATTORNEY PROTECTIVE ORDER HEARINGS

Pre-trial forms are not required for any hearing at which attorneys from Travis County Domestic Relations Office, the Department of Protective and Regulatory Services, the Texas Attorney General's Office or the County Attorney Protective Order Division appear.

# 7.5 NO EXTENSIONS OR WAIVERS BY COURT ADMINSTRATOR OR BY AGREEMENT

The Court Administrator is not authorized to extend the time for delivering pretrial forms. The parties may not by agreement waive or modify the provisions or requirements of these rules.

#### 7.6 HANDLING OF FORMS

The Court Administrator will deliver pre-trial forms received prior to a final trial on the merits to the Judge to whom the case is assigned for trial. Pre-trial forms shall not be filed with the District Clerk at any time. The District Clerk is authorized to destroy any such forms found in the case file maintained by the Clerk.

#### 7.7 USE OF EVIDENCE

Subject to applicable rules of evidence, the pre-trial forms required by these rules may be used during the trial or hearing and may be marked as exhibits and offered in evidence.

#### 7.8 CONSEQUENCES FOR FAILURE TO COMPLY

#### (1) ALL PARTIES FAIL TO COMPLY

If all parties in a case fail to deliver pre-trial forms as required by these rules, the case will be moved to the bottom of the list of cases set for the same time and will be heard only after all announced cases are heard and only if time permits.

#### (2) A PARTY FAILS TO COMPLY

If it appears that any party in a case failed to deliver pre-trial forms as required by these rules, the Court shall conduct a pre-trial conference if requested and notice is given by any party, or the Court may conduct a pre-trial conference on its own motion. The Court may impose one or more of the sanctions authorized by Tex. R. Civ. Proc. 215 against any party or attorney responsible for such failure.

#### (3) ISSUES WAIVED

All issues not stated in pre-trial forms as required by these rules will deemed waived except upon a showing of good cause for failure to comply with these rules.

#### 7.9 NO LIMITATION ON TEXAS RULES OF CIVIL PROCEDURE

These rules shall not be construed as a substitute for, or as any limitation upon, any pre-trial or discovery right or proceeding pursuant to the Texas Rules of Civil Procedure. In cases subject to these local rules, as in other cases Texas pre-trial conference and discovery rules apply.

0	PPOSING ATTY.	
	PHONE NO	
CAUS	E NO	
IN THE MATTER OF THE MARRIAGE OF	§ § §	IN THE DISTRICT COURT OF
	§	COUNTY, TEXAS
AND	§ § §	
	§	JUDICIAL DISTRICT
PROPO	OSED DISPOSITION	ON OF ISSUES
TO THE HONORABLE JUD	OGE OF SAID CO	URT:
		, would ask
the Court to make the follow	wing disposition o	of all issues incident to this Divorce
and would testify in court	under oath that tl	ne attached information is true and
correct.		
	Respectfully	submitted,
	ATTORNEY	/ FOR
		).

IN THE MARRIAGE OF		CAUSE NO	) <b>.</b>		
S		§	IN THE DIS	STRICT COURT (	DF
AND		§		COUNTY, TEX	XAS
S	AND	§			
TO THE HONORABLE JUDGE OF SAID COURT:			J	UDICIAL DISTRI	CT
		PROPOSED I	PROPERTY DIV	<u>ISION</u>	
to the Court the following proposed division of property.    Community Property Division	TO THE HONORABLE J	UDGE OF SAID CO	OURT:		
to the Court the following proposed division of property.    Community Property Division			···· , ·····		_ , hereby presents
Property         Fair Market Debt Value         Secured Balance         To Wife Net Value         To Husband Net Value           1.         \$					
Property         Market Value         Debt Balance         To Wife Net Value         To Husband Net Value           1.         \$	Community Property Div	<u>rision</u>			
Property         Value         Balance         Net Value         Net Value           1.         \$				T	
2.       S       S       S       S         3.       S       S       S       S         4.       S       S       S       S         5.       S       S       S       S         6.       S       S       S       S         7.       S       S       S       S         8.       S       S       S       S         9.       S       S       S       S         10.       S       S       S       S         11.       S       S       S       S         12.       S       S       S       S         13.       S       S       S       S         14.       S       S       S       S         15.       S       S       S       S         16.       S       S       S       S         17.       S       S       S       S         18.       S       S       S       S         19.       S       S       S       S         20.       S       S       S       S         21.	<u>Property</u>				
2.       \$	1\$	\$	\$	\$	\$
3.       \$			\$	\$	\$
5.       S	3	\$			_ \$
6.       S	4	\$	\$		
7.       \$	5	\$	\$		
8.       \$	6				
8.       \$		\$	\$		\$
10.       \$		\$	\$		
10.       \$					
11.       \$	10		\$	\$	_ \$
13.       S	11		\$	\$	\$
14.       S			\$	\$	
15.       S	13	\$	\$		\$
16.       S	14		\$		<u> </u>
17.       S	15		\$	\$	\$
18.       \$	16	\$	\$	\$	<u> </u>
19.       \$	17	\$	\$	\$	<u> </u>
20.       S	18	\$	\$	\$	_ \$
21.       S       S       S         22.       S       S       S         23.       S       S       S         24.       S       S       S	19	\$	\$	\$	\$
22.       \$	20	\$	\$	\$	\$
23 S S S 24 S S S	21	\$	\$	\$	\$
24 \$ \$ \$ \$	22	\$	\$	\$	\$
24 \$ \$ \$ \$	23	\$	\$	\$	<u> </u>
	25	\$	\$		\$

	Fair Market	Secured Debt	To Wife	To Husband
<u>Property</u>	<u>Value</u>	<u>Balance</u>	Net Value	Net Value
26	\$	\$	\$	_ \$
27.	\$	\$		\$
28		\$	\$	
29		\$	\$	\$
30		\$	<u>     \$                               </u>	\$
31		\$	\$	\$
32	\$	\$	\$	_ \$
33		\$	\$	_ \$
34.	\$	\$	\$	\$
35	\$	\$	\$	\$
36		\$	\$	\$
37.		\$	\$	\$
38		\$	\$	\$
39		\$	\$	\$
40		\$	\$	\$
41		\$	\$	\$
42			\$	
43		\$	\$	\$
44.		\$	\$	\$
45		\$	\$	\$
46			\$	
47.		\$		\$
48			\$	\$
49		\$	\$	s
50			\$	\$
51			\$	- \$S
52		\$ \$	\$	\$
53		\$ \$	\$	\$
54			\$	\$
55			\$	\$
56.	\$		\$	\$
57.	\$ \$	_		S
58	\$\$	_	\$	\$
59				
60				
61		_ \$	\$	\$
62		_ \$	\$	\$
63			\$	
64		\$	\$	\$
65		\$	\$	\$
· · ·			Y	_ Y
TOTAL COMMUNITY PROPERTY	Ύ \$	\$	\$	\$

## LESS UNSECURED COMMUNITY DEBTS:

CREDITOR	DEBT <u>Balance</u>	TO WIFE <u>NET VALUE</u>	TO HUSBAND <u>NET VALUE</u>
1	\$	\$	\$
2		\$	\$
3		\$ \$	\$ \$
4		\$	\$
5		\$	\$
6		\$	\$
7		\$	\$
8		\$	\$
9		\$	\$
10		\$	\$
11		\$	\$
12		\$	\$
13	\$	\$	\$
14	\$	\$	\$
15		\$	\$
16		\$	\$
17		\$	\$
18		\$	\$
19		\$	\$
20	\$	\$	\$
21		\$	\$
22.		\$	\$
23		\$	\$
24	\$	\$	\$
25		\$	\$
26		\$	\$
27		\$	\$
28.		\$	\$
29.		\$	\$
30		\$	\$
31.		\$	\$
32.		S	\$
33.	\$	S	\$
34	\$	\$	\$
35	\$	\$	\$
TOTAL COMMUNITY			
DEBTS	\$	\$	\$
NET COMMUNITY	\$	\$	\$

## **SEPARATE PROPERTY OF WIFE**

## SEPARATE PROPERTY OF HUSBAND

CAUSE N	10	<del></del>
IN THE MATTER OF	§	IN THE DISTRICT COURT OF
THE MARRIAGE OF	§	
	§	
	§	COUNTY, TEXAS
	§	
AND	§	
	§	
	§	JUDICIAL DISTRICT

## PROPOSED DISPOSITION OF OTHER ISSUES

		TTER OF	§	IN THE DISTRICT CO	OURT (
THE I	MARRI	AGE OF	§ §	COUN	ГҮ, ТЕХ
AND			§		
AND			§ §		
			§	JUDICIAL	DISTR
PROP	POSED	SUPPORT DECISION AND INFORM	IATION (	OF	
(A)	GRO	SS MONEY EARNED PER MONTH:			
	(1)	Gross wages and salary income	\$		
	(2)	Commissions, tips and bonuses	\$		
	(3)	Self-employment income (net of			
	. ,	expenses other than depreciation and tax credits)	\$		
	(4)	Rental income (net of expenses other than depreciation)	\$		
	(5)	All other income actually			
		received (specify):	\$		
			\$	<del></del>	
		GROSS MONEY EARNED I	PER MON	TTH \$	
(B)	ACT empl	UAL DEDUCTIONS PER MONTH - oyer.	Attach	most recent pay stub	from
	(1)	Income tax withholding	\$		
	(2)	FICA (Social Security)	\$		
	(3) (4)	Health insurance Union dues	\$		
	(5)	Other (specify) :	<b>\$</b>		
			\$		
			\$		
			\$	<del></del>	
		TOTAL ACTUAL DEDUCTIONS PI	ER MONT	TH \$	
(C)	NET	MONEY ACTUALLY RECEIVED PER M	IONTH SI	HRSTDACT (R)	

(D)		UTORY NET RESOURCES DECUSTION	NS ALLOWED PER MONTH:	
	(1)	Income tax withholding for a single		
		person claiming one personal exemption and standard deduction	\$	
	(2)	FICA (Social Security)	\$	
	(3)	Health insurance attributable to		
		child(ren)	\$	
	(4)	Union dues	\$	
\$		ORY NET RESOURCES DEDUCTIONS(D)	ALLOWED PER MONTH	
(E) \$	STATUTORY NET RESOURCES PER MONTH. SUBSTRACT (D) FROM(E)			
Ψ	(A).	(L)		
(F)		MONEY NEEDED PER MONTH BY ME		
	WITH M	E. For items which are not paid monthly	y, express the amount as a monthly average.	
	(1)	Pant or house nerment	\$	
	(2)	Rent or house payment real property taxes (omit if part	\$	
	(2)	of house payment	¢.	
	(3)	Residence maint. (repairs, yard)	\$ \$	
	(4)	Insurance – home or renters (omit	٥	
	(4)	if part of house payment)	¢	
	(5)	Utilities – Gas	\$	
	(6)	Utilities – Gas Utilities – Electric and water	\$	
			\$	
	(7)	Telephone (incl. avg. long dist.) Utilities – Garbage service	\$	
	(8)	Groceries and household items	\$	
	(9) (10)	Meals away from home	\$	
	(10)	School lunches	\$	
	(11) $(12)$	Dental and orthodontia	\$	
	(12) $(13)$		\$	
		Medical and prescriptions	\$	
	(14)	Laundry and dry cleaning	\$	
	(15)	Car payment Gas and vehicle maintenance	\$	
	(16)		\$	
	(17)	Clothing and Shoes Insurance – Car	\$	
	(18)	Insurance – Cai Insurance – Life	\$	
	(19) (20)		\$	
	(20) $(21)$	Insurance – Health (omit if payroll dec Child care		
	(21) $(22)$	Children's activities	\$ \$	
	(23)	Entertainment		
	(23) $(24)$	Haircuts	\$	
			\$ \$	
	(25) (26)	Cable TV and newspaper Total monthly payments on debts	٥	
	(20)	(list below at G and only show total he	ere) \$	
	(27)	Support or alimony payments to other		
	(27) $(28)$	Other (specify) :	\$	
	(20)	Other (specify).	\$ \$	
		TOTAL MONEY NEEDED P		

(G)	TOTAL MONTHLY PAYMENTS ON DEBTS:

	Description Of Debt	Balance <u>Now Owed</u>	Date of <u>Final Payment</u>	Amount of Monthly Payment
	TC	OTAL MONTHLY P	PAYMENTS ON DEBTS	\$
	SUBSTRACT (F) FRO	WI (C)		ş
(I)		MED CHILD SUPP	ORT – MULTIPLY (E) I %	\$ BY THE \$
(I)	STATUTORY PRESU GUIDELINE PERCEN	MED CHILD SUPP	%	BY THE \$
the requ	STATUTORY PRESUME GUIDELINE PERCENTAL I,	MED CHILD SUPP		BY THE  \$ er oath in open court the court hearing I ma
the requ	STATUTORY PRESUMENT OF	MED CHILD SUPP NTAGEs s true and correct. ounts by testimony	% , would testify und I understand that at suc	BY THE  \$er oath in open court the court hearing I may pay vouchers, cancell
requ	STATUTORY PRESUMENT OF	MED CHILD SUPP NTAGE  s true and correct. ounts by testimony day of	% , would testify und I understand that at suc and by records such as	BY THE  \$er oath in open court the court hearing I may pay vouchers, cancell
the requ	STATUTORY PRESUMENT OF	MED CHILD SUPP NTAGE  s true and correct. ounts by testimony day of Signa	%, would testify und I understand that at suc and by records such as, 20,	BY THE  \$er oath in open court the acourt hearing I may pay vouchers, cancell

#### FAMILY LAW SUPPORT AND SHOW CAUSE ORDERS

8.1 All child support payments ordered pursuant to any Title IV-D court order shall be paid directly to the Texas Child Support State Disbursement Unit, P.O. Box 659791, San Antonio, Texas, 78265-9791.

All non-Title IV-D child support payments ordered on or after January 1, 1994, in which the court has ordered in the underlying order that payments be made through income withholding shall be paid directly to the Texas Child Support State Disbursement Unit, P.O. Box 659791, San Antonio, Texas 78265-9791.

All other child support payment and all spousal support payments shall be paid through the Travis County Domestic Relations Office. P.O. Box 1495, Austin, Texas 78767

The Travis County Domestic Relations Office is hereby designated as the Registry of the Court for all of the District Courts for the purpose of receiving all spousal support and for any child support paid to the Domestic Relations Office according to the provision of this rule; for the maintenance of records of child support payments; for the distribution of child support payments; made pursuant to this rule as required by law; and for the custody of official child support payment records.

At the time any spousal or child support is ordered, except payments ordered pursuant to a Title IV-D Agency court order or decree, the party who is to receive the support must provide to the Domestic Relations Office a "Request To Establish An Account" containing the information required by that office. After the order or decree is signed, such party shall deliver to the Domestic Relations Office a signed copy of the order or decree.

The provisions of this rule are effective immediately.

**8.2** Every draft of a show cause order for a hearing before an Associate Judge must require the respondent to report to Room 511 in the Courthouse at 8:30 a.m.

The paragraph in the order stating this requirement should read as follows:

"It is ordered that t	the Clerk shall issue notice to Responder	ıt,
	to appear, and said Respondent is here	by
ordered to appear, by re	porting to Room 511 of the Travis Coun	ıty
Courthouse, 1000 Guada	lupe, Austin, Texas, on the d	ay
of, 20	, at 8:30 a.m."	

# MOTIONS TO WITHDRAW AS ATTORNEY OF RECORD AND MOTIONS TO SUBSTITUTE ATTORNEYS

- **9.1** A motion to withdraw, as attorney of record will be granted without a hearing only if the moving attorney:
  - (a) files written consents to the withdrawal signed by attorneys for all parties; and
  - (b) files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that prevent the moving attorney from obtaining the client's written consent; and
  - (c) files a certificate stating the last known mailing address of the client.

If a motion to withdraw and to substitute another attorney includes an appearance by another attorney pursuant to Rule 10 and Rule 57, Texas Rules of Civil Procedure, that appearance will satisfy the requirements of subparagraphs (b) and (c) above, but such an appearance will not satisfy the requirement that the movant must file written consents to the withdrawal signed by attorneys for all parties.

9.2 If all requirements of Local Rule 9.1 are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client and to all other parties.

### UNCONTESTED DIVORCES AND OTHER UNCONTESTED MATTERS

10.1 On Monday through Friday of each week from 8:00 a.m. until approximately 8:50 a.m. and from 1:30 p.m. until approximately 2:20 p.m., at least one Judge will be available in a courtroom to sign orders and to hear uncontested divorces and other uncontested matters of very short duration.

These matters will ordinarily be considered in the order in which the pertinent files, docket sheets, and papers are brought to the courtroom clerk.

Court reporters will be available at the morning (8:00 a.m. to 8:50 a.m.) session only.

Notice of the location of this uncontested docket will be posted each day on the bulletin board outside of the District Clerk's office on the third floor of the Courthouse.

## **Comment Concerning Local Rule 10.1**

The purpose of this Rule is to provide flexibility for attorneys in scheduling uncontested divorce hearings and to provide convenient access to a Judge for the signing of orders and for very brief uncontested hearings.

Attorneys should make use of this uncontested docket not only for uncontested divorces, but also for uncontested name changes, agreed orders in pending divorce cases, orders concerning service of citation, family law temporary restraining orders, show cause orders, and other such matters.

#### **AMENDED AS OF JANUARY 1, 2002**

# **Special Instruction for Local Rule 10.1**

Attorneys must obtain from the District Clerk's office and deliver to the courtroom all files and docket sheets, which may be needed for the matters, which they will present to the Judge.

When a request is to be made for withdrawal of funds maintained in the Registry of the Court for the benefit of a minor who has not yet reached legal age, the applicant shall bring to the Court with the motion a Summary of Minor's Bank Account obtained from the Office of the District Clerk reflecting the status of the minor's account, indicating previous withdrawals, if any.

#### DISMISSAL FOR WANT OF PROSECUTION

- **11.1 Case Selection.** The following cases are eligible for dismissal for want of prosecution under this chapter pursuant to T.R.C.P. 165a:
  - (a) Cases on file for more than 180 days in which no answer has been filed.
  - (b) Cases which have been on file for more than eighteen months and are not set for trial and have had no filings or settings within 180 days.
  - (c) Cases in which a party or the party's attorney has failed to take any action specified by the Court.
  - (d) Any other case designated by the Court.
- 11.2 Filing Procedures. The District Courts shall establish the procedures necessary to accomplish the purpose of this chapter including the keeping of all records and dockets. ALL ORIGINAL NOTICES, MOTIONS, NOTIFICATIONS AND PLEADINGS REQUIRED TO BE FILED BY THIS CHAPTER SHALL BE INITIALLY DELIVERED TO THE COURT ADMINISTRATOR'S OFFICE OF THE CIVIL DISTRICT COURTS (512-854-9096, 512-854-9097 or 512-854-9098). The Court Administrator's Office shall file in a timely manner all documents required by this chapter with the District Clerk's Office.
- 11.3 **Notice.** Pursuant to Rule 165a, Texas Rules of Civil Procedure, the Court Administrators Office shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of dismissal unless at least one party complies with the requirements set forth in this chapter.

**11.4 Docket Settings.** No central docket settings may be obtained in cases set for dismissal until the dismissal docket process is complete, except with leave of Court.

## 11.5 Procedures for Retaining Cases and Objecting to Motions to Retain.

- (a) Motions to retain shall be filed with the Court Administrators

  Office at least three working days prior to the date specified in the

  notice of dismissal for want of prosecution.
- (b) All motions to retain shall include a proposed Order to Retain (original and one copy). Any party that files a motion to retain shall include a written memorandum setting forth the factual and legal basis why the case should not be dismissed for want of prosecution.
- (c) Parties objecting to a motion to retain shall file with the Court Administrators Office a written memorandum setting forth the factual and legal basis for their objecting to the motion to retain within ten days of service of a motion to retain.
- (d) Failure of a party to appear in person or by written submission in connection with any motion will not of itself constitute grounds for ruling against the party.
- (e) There will be no oral arguments on motions to retain or objections to motions to retain, unless ordered by the Court.
- **11.6 Cases Not Requiring Oral Arguments.** The Court shall notify all parties filing a motion to retain or objection to a motion to retain of the Court's ruling.

## 11.7 Cases Requiring Oral Arguments.

- (a) The Court shall notify the party filing a motion to retain of the Court's decision to permit oral arguments.
- (b) Unless otherwise set by the Court, the party filing a motion to retain shall be responsible for setting any hearings required by the Court on motions to retain and for giving proper notice to all interested parties. Settings shall be made and conducted within sixty days of the date set forth on the notice of dismissal for want of prosecution. Settings shall be made through the Court Administrators Office.
- (c) Parties filing a motion to retain or an objection to a motion to retain shall notify in writing the Court Administrators Office as to the outcome of any oral argument hearings on such pending motions within ten working days of the scheduled hearing.

#### 11.8 Retained Cases.

- (a) Cases retained by order of the Court are hereby referred to alternative dispute resolution procedures as authorized by the Texas Alternative Dispute Resolution Procedures Act and as described in Chapter 17 of the Travis County Local Rules.
- (b) Parties filing motions to retain shall file any objection to ADR simultaneously with their motion to retain. Parties receiving notice of a motion to retain shall file any objection to ADR within ten days of service, or (simultaneously with an objection to a motion to retain).
- (c) Any party objecting to ADR shall file with the Court Administrators Office a written memorandum setting forth the factual and legal basis for their motion.

- (d) There will be no oral arguments on objections to ADR unless ordered by the Court.
- (e) Objections to ADR shall be scheduled simultaneously with all court hearings required by the Court on motions to retain or motions objecting to a motion to retain.
- (f) Unless otherwise set by the Court, objections to ADR shall be set through the Court Administrators Office.
- (g) The party filing an objection to ADR shall be responsible for notifying in writing the Court Administrators Office as to the outcome of any hearings conducted on a motion objecting to ADR within ten days of the hearing.
- (h) Parties filing motions to retain shall be responsible for scheduling and ensuring completion of an ADR procedure within 90 days of the Court's ruling to retain a case.

## 11.9 <u>Discovery</u>

No further discovery is authorized in cases retained by the Court and ordered to complete an ADR procedure unless ordered by the Court or by written agreement of all parties and filed with the Court Administrators Office. <u>Further discovery will not extend</u> the deadlines prescribed in this chapter unless <u>ordered by the Court.</u>

### 11.10 ADR Certification:

(a) Within 90 days of the Court's ruling to retain a case, the party filing the motion to retain shall deliver to the Court Administrators Office a written statement indicating that mediation has been completed and whether settlement was reached. (b) The ADR certification may be waived upon presenting a proposed or signed order of final judgment to the Court Administrators Office.

## 11.11 Scheduling Order

Parties involved in cases completing mediation and not reaching settlement shall submit a proposed scheduling order, (including a trial date) within 120 days of the Court's ruling to retain a case to the Court Administrators Office.

## 11.12 Noncompliance Penalty

Failure to comply with any provision of this chapter shall result in the immediate dismissal of a case for want of prosecution.

# 11.13 Includes All Pending Claims

Whenever this chapter refers to a case it shall include all pending claims in the case.

### HEARINGS CONDUCTED BY TELEPHONE

- 12.1 Any party may request that a short hearing (generally 30 minutes or less), not requiring the introduction of evidence, be conducted by telephone conference call or that the party be allowed to participate in the hearing by telephone. The requesting party shall make the request in writing to the Court Administrator with notice to all other parties. Any party objecting shall advise the Court Administrator. The Court Administrator shall refer any objection to a Judge. Subject to all other provisions of these Rules, telephone hearings shall be set on the non-jury docket and shall be conducted either in open court or in chambers as determined by the Judge to which the hearing is assigned. Participation in hearings by telephone is encouraged. WARNING: Conference calls will not be permitted in any case in which attorneys fail to comply with Local Rule 3.2.
- **12.2** At the discretion of the Judge or Associate Judge, a court reporter or recording device may be provided by the Court during these calls. A request by an attorney for such an arrangement must be made in advance.
- **12.3** A Judge or Associate Judge will not initiate a conference call. All arrangements with telephone operators must be made by a participating party.
- 12.4 A Judge or Associate Judge may, at anytime, determine that a hearing by telephone is not sufficient and may require a hearing in court upon notice to all parties.

## REVIEW OF ACTIONS OF ADMINISTRATIVE AGENCIES

- of a final decision of a state agency brought pursuant to § 2001.171 *et seq.* of the Administrative Procedure Act [Tex. Gov't Code Ann. § 2001.001 *et seq.* (Vernon Supp. 1995)], with the exception of cases requiring a trial de novo. Such proceedings are referred to as "substantial evidence appeals." This Chapter shall also apply to all actions challenging a pending contested case or rulemaking proceedings, including injunction, mandamus, and declaratory judgment actions, and to all declaratory judgment proceedings brought pursuant to Tex. Gov't Code Ann. § 2001.038 (Vernon Supp. 1995). This Chapter shall not apply to proceedings brought by the state to enforce agency orders, commissions, or subpoenas, except in appropriate circumstances upon order of the Court.
- **13.2 Assignment of Cases.** All proceedings subject to this Chapter shall be assigned to a Judge. Cases shall be assigned upon written request by any party to the Local Administrative Judge. The letter requesting assignment shall contain a list of all parties to the case, their attorneys of record, and the attorneys' addresses, telephone numbers, and telephonic document transfer numbers. The letter shall note any case arising from the same or a related agency docket, whether it has been assigned, and if so, to whom. Cases generally shall be assigned on a rotating basis; provided, however, that the Local Administrative Judge may assign a case out of rotation, in the interest of judicial economy or justice, on either the Local Administrative Judge's own motion, a written request signed by all the

parties, or, if all parties do not agree to such a request, upon a written motion that sets forth reasons why in the interest of judicial economy or justice a particular Judge should be assigned. The Local Administrative Judge shall inform the parties by letter when a case has been assigned.

- 13.3 Hearings. The Judge to whom a case is assigned shall hear all matters relating to the case. As far as practicable, hearings shall be scheduled on Friday afternoons. Hearings on the merits in substantial evidence appeals are generally expected to take not more than two hours and shall not exceed three hours except with leave of court. Failure to brief an issue for the merits hearing waives the issue, but failure to argue an issue at the merits hearing does not waive the issue. Parties to a substantial evidence appeal shall attempt to reach agreement on a date for the merits hearing, the amount of total time for argument, the division of time among them, and the order of presentation of argument. All hearings set for Friday afternoon or any other time not on the central docket shall be scheduled by contacting the assigned Judge's office. Matters preferentially set on the central docket must be scheduled through the assigned Judge's office and the Court Administrator's office.
  - 13.3.1 Applications for Temporary Restraining Orders. An application for temporary restraining order in a case not yet assigned may be heard by any available Judge, but the applicant shall thereafter request in writing that the case be assigned pursuant to Section 13.2 of this Chapter. In the hearing on the application for a temporary restraining order, the applicant must state what efforts were taken to provide advance notice of

the hearing (including by telephone) to counsel for the party or parties to the agency proceeding, and if efforts to provide notice were not undertaken, the reasons why.

The applicant shall also comply with any specific notice requirements imposed by law or rule. Prior notice must be given to the Attorney General of Texas of any hearing to restrain agency action.

- **13.4 Briefs.** Substantial evidence appeals shall be briefed by the parties in advance of the hearing on the merits. The parties shall attempt to establish a briefing schedule by agreement and shall notify the Judge to whom the case is assigned of the agreed dates. In the event the parties are unable to agree upon a briefing schedule, a party may request a hearing for the purpose of establishing a schedule.
  - 13.4.1 Initial Briefs. Except with leave of court, the initial brief of each named or intervening party challenging an agency action ("Plaintiff") or defending an agency action ("Defendant") in a substantial evidence appeal shall be no more than fifty (50) pages in length, exclusive of table of contents, index of authorities, glossary of technical words and terms, and appendices, and shall contain the following:
    - (a) **List of Parties.** In the case of Plaintiff's initial brief, a complete list of the names of all parties and their attorneys.
    - (b) **Statement of the Nature of the Case.** A short general statement by Plaintiff of the nature of the case, including its jurisdictional basis, without argument of any error

asserted, and a short statement by Defendant of any disagreement with Plaintiff's statement of the nature of the case, without argument pertaining to the points of error.

- (c) **Statement of Facts.** A statement of pertinent facts, with any disagreements with the Plaintiff's statement noted by the Defendant.
- (d) **Points of Error and Argument.** A statement by the Plaintiff of each point of error, separately numbered, with a reference to the pertinent paragraph or portion of the motion for rehearing filed with the agency, followed immediately by the argument pertinent to such point or related group of points, and a statement by Defendant of each reply point, separately numbered and specifying the point or points it addresses, followed immediately by the argument pertinent to such point or a related group of points.
- (e) **Prayer for Relief.** A prayer for relief that specifically states the action sought by the party submitting the brief.

The initial brief of each party may contain a table of contents, an index of authorities, appendices and a glossary of technical words and terms. It is useful to include in any appendix short record excerpts that are relied upon in the brief or will be discussed in the hearing.

- 13.4.2 Reply Brief. A reply brief is not required in a substantial evidence appeal, but if one is submitted, it shall be no more than twenty-five (25) pages in length, except with leave of court, exclusive of table of contents, index of authorities, glossary of technical words and terms, and appendices, which may be filed with the reply brief. A reply brief shall contain only argument in reply to another brief and shall not repeat previous statement.
- 13.4.3 Filing and Service. Briefs in substantial evidence appeals shall be filed with the District Clerk and served on all parties. Each party shall deliver to the Judge to whom the case is assigned a copy of its brief, marked on the cover as "Judge's Copy." The Judge's copy of the Plaintiff's Brief shall have attached to it or separately bound and clearly labeled as an appendix:
  - (a) a copy of the agency's final order, including any report or recommendation incorporated or adopted by reference in the order; and
  - (b) a copy of the Plaintiff's motion for rehearing filed with the agency, or that portion of the motion necessary to show that the points of error briefed were included in the motion.

The Judge's copy of the brief of any party may have attached to it or separately bound and clearly labeled as an appendix:

- (a) copies of selected parts of the record pertinent to the points briefed;
- (b) copies of statutes, rules, regulations, and other law sources that may not be readily accessible; and

- (c) copies of authorities that the party's attorney considers to be particularly important.
- **Non-Substantial Evidence Appeals.** Upon agreement of the parties or order of the Court, other actions subject to this Chapter may be briefed in accordance with this section.
- 13.5 Administrative Record. In substantial evidence appeals, the party or parties challenging the agency action shall be responsible for having the administrative record in the courtroom at the time and date designated for the hearing on the merits. The Attorney General shall cooperate with and provide reasonable assistance to the party or parties challenging the agency action in having the administrative record in the courtroom at the time and date designated for the hearing on the merits. This section does not affect the agency's duty under § 2001.175(b) of the Administrative Procedure Act to file the administrative record with the District Clerk. If the record has not been filed in advance of the designated hearing date, counsel for the agency shall be responsible for having the record in the courtroom at the time of the hearing.
- **13.6 Dismissal for Want of Prosecution.** Upon notice and hearing on a motion of any party or the Court's own motion, a case may be dismissed for failure of the party or parties bringing the suit to prosecute the suit with reasonable diligence.
- **13.7 Alternative Dispute Resolution.** A case subject to this Chapter will not be referred for alternative dispute resolution pursuant to Chapter 11 of these Rules.

## ADOPTIONS AND TERMINATIONS

- **14.1** In the following proceedings, the District Clerk will maintain the files, docket sheets, and minutes as confidential records:
  - (a) every suit in which the petition includes a prayer seeking adoption of a child;
  - (b) every suit in which any authorized agency seeks termination of the parent-child relationship.

In all other suits seeking termination but not adoption, the files, docket sheets, and minutes will not be confidential or sealed unless otherwise ordered pursuant to Local Rule 14.03.

All social studies and reports filed pursuant to the Texas Family Code will be maintained as confidential records.

14.2 If confidential records relating to a request for further action concerning a child in the court of continuing jurisdiction are required by Texas Family Code, § 155.104, to be filed under the same docket number as a prior proceeding in which records were not confidential or sealed, the District Clerk will place the petition in a separate file folder for the same suit, with the same docket number. The Clerk shall make a notation on the original file folder that there is a separate file folder containing confidential pleadings and orders.

14.3 In any pending proceeding brought by the Texas Department of Protective and Regulatory Services concerning a child and in any pending suit in which any party seeks termination of the parent-child relationship, the Court, on the application of a party or on the Court's own motion, may order that records shall be confidential.

After final judgment or decree in such a matter and in any proceeding in which adoption is sought, records may be sealed pursuant to § 108.002 of the Texas Family Code.

- 14.4 In every suit in which there are confidential or sealed records, the petitioner's attorney must determine whether the records are correctly marked and maintained and must bring to the attention of the District Clerk any clerical action required.
- **14.5** The District Clerk is hereby authorized to use microfilm or other suitable means for maintaining inactive confidential records and sealed files.
- 14.6 The District Courts have determined that the following orders concerning appointments of guardians *ad litem* and the making of social studies are necessary for the orderly disposition of suits seeking termination of the parent-child relationship or adoption, or both.

Subject to any order that may be made in a particular cause, it is therefore ordered pursuant to Rule 166, Texas Rules of Civil Procedure, that Local Rules 14.07 and 14.08 shall constitute standing pre-trial orders in all cases to which said Rules apply.

- 14.7 (a) In every suit in which the petitioner seeks to terminate a parent-child relationship or to adopt a child, the Clerk shall forward a copy of the petition as soon as practicable to the Manager of the Family Services Unit of the Travis County Domestic Relations Office (Family Services Manager).
  - (b) (1) In each suit in which the Texas Department of Protective and Regulatory Services seeks to terminate the parent-child relationship, the Court shall appoint an attorney *ad litem* for each child by court order as soon as practicable after the suit is filed, and on a case-by-case basis as necessary the Court may appoint the Family Services Manager as guardian *ad litem* for each child.
  - (b) (2) In each suit in which a child-placing agency seeks to terminate the parent-child relationship (other than the Texas Department of Protective and Regulatory Services), the Family Services Manager shall as soon as practicable either (a) recommend that the child-placing agency be appointed guardian *ad litem* or (b) recommend that the Family Services Manager be appointed guardian *ad litem*.
  - (b) (3) In every other suit seeking termination of the parent-child relationship, the Family Services Manager is appointed by this standing order as guardian *ad litem* for each child.
  - (c) (1) In each suit seeking adoption of a child placed for adoption by the Texas Department of Protective and Regulatory Services, on a case-by-case basis as necessary the Court may appoint the Family Services Manager as guardian *ad litem* for each child.

- (c) (2) In each suit seeking adoption of a child placed for adoption by a child-placing agency (other than the Texas Department of Protective and Regulatory Services), the Family Services Manager shall as soon as practicable either (a) recommend that the child-placing agency be appointed guardian *ad litem* or (b) recommend that the Family Services Manager be appointed guardian *ad litem*.
- (c) (3) In every other suit seeking adoption of a child, the Family Services Manager is appointed by this standing order as guardian *ad litem* for each child.
- (d) In all suits affecting the parent-child relationship in which the Texas Department of Protective and Regulatory Services has been named by the Court or seeks to be named by the Court, or has been named in an affidavit of relinquishment, as the managing conservator of a child, the Family Services Manager shall to the extent practicable keep the following records for the information of the Court:
  - 1) Cause Number
  - 2) Case Name
  - 3) Child Data

On each child: name, date of birth, place of birth, social security number, ethnicity, race, sex.

## 4) Child Placement Data

Name of facility or foster home, date of placement and removal, number of days at each placement special auspice of placement (e.g. Casey or Blair), type of placement facility school child is attending and grade level, addresses and phone numbers of facility and school, name of proprietor, and county of location.

## 5) Parent/Other Party Data

Names of parents, CASA volunteer and caseworker and supervisor, the Blair Foundation caseworker, and supervisor, and the DPRS caseworker and supervisor. The date when each volunteer, caseworker, or supervisor started working on the case, the date when that person's involvement ended, and addresses and phone numbers of all involved.

## 6) **Home Study Data**

Name of parent or other party requesting home study for child(ren)'s placement, including addresses and phone numbers for home and work.

## 7) Attorney Data

Name of all attorneys and their addresses, phone numbers, person(s) represented (including staff of the Attorney General).

## 8) Court Hearing Data

Date, type of hearing and order, name of the judge, and any special instructions; date and time of Chapter 18 reviews and any special instructions; type and date of last conservatorship and any special provisions.

#### 9) **Visitation Information**

Type and frequency ordered for parents and siblings (if the siblings are placed apart).

#### 10) Child Support Information

Amount ordered and terms, start date, payor/payee names, and Domestic Relations account number.

#### 11) Court-Ordered Services

What type, name of agency providing, beginning date, party responsible for payment, transportation arrangements, and other instruction for service provision.

#### 12) **DPRS Plan of Service**

Date of plan, who participated in development, timelines for implementation, plan for permanence, and whether filed with the Court.

#### 13) Information on Service of Lawsuit

Persons to be served (parents and other parties), date of service, method of service, and dates service was attempted if unsuccessful.

## 14) Significant Incidents Information

Any information reported to the Court, in pleadings, court reports, statements, or testimony, concerning significant incidents which are alleged to have occurred during the child's care.

All parties are ordered to provide access to or produce the information necessary for the Family Services Manager to keep the required records.

The Family Services Manager shall permit all parties access to the records maintained pursuant to these Rules, except that if any party requests any particular information to be kept confidential, the Manager shall not disclose that information unless directed by the Court.

- (e) As originally enacted, this standing order became effective October 1, 1984. The order is amended effective July 10, 1991. Each appointment under this order shall become effective on the date suit is filed. All appointments under the original order remain effective. In all cases in which the Family Services Manager was appointed under the terms of the original standing order but would not have been appointed under the terms of the amended standing order, the Family Services Manager shall continue as guardian ad litem until discharged by specific order of the Court.
- (f) A decree terminating the parent-child relationship shall not discharge a guardian *ad litem* unless otherwise ordered.
- 14.8 In a suit in which the Texas Department of Protective and Regulatory Services seeks termination of the parent-child relationship, any social study that is ordered should be made by the petitioner Department.

Any party who seeks an order that the Family Services Manager make such a social study must submit a draft of the proposed order, approved and signed by the Family Services Manager, as well as the attorneys.

In each suit seeking adoption of a child placed for adoption by the Texas Department of Protective and Regulatory Services or an authorized agency, this is a standing order that the agency or Department that placed the child for adoption shall make the social study required by § 162.003 of the Texas Family Code.

In every other suit in which an adoption is sought, this is a standing order that the Family Services Manager shall make said social study. Each social study made pursuant to this standing order shall be filed on a date set by, and shall be made according to criteria established by, the Family Services Manager, under the supervision of the District Judges.

In each suit in which an adoption is sought, this standing order shall be effective on the date the suit is filed, which date shall be "the date on which the investigator is appointed" for the purposes of setting the hearing pursuant to § 162.004 of the Texas Family Code.

14.9 In suits seeking termination of the parent-child relationship or adoption, or both, and in all suits in which the Family Services Manager is guardian *ad litem*, the Family Services Manager may request that the matter be set for trial or a hearing.

# DRAFTS OF JUDGMENTS, DECREES, AND ORDERS TO BE SIGNED BY JUDGES

- **15.1** So far as practicable, every draft of a judgment, decree, or order to be signed by a Judge or Associate Judge should be approved as to form by attorneys for all parties before it is presented to the Judge.
- 15.2 Every draft of a judgment, decree, or order which is submitted through the District Clerk's office to be signed by a Judge or Associate Judge after a trial or hearing shall have typed on it below the line for the Judge's signature the name of the Judge who presided at said trial or hearing.

Each such draft shall also be accompanied by a letter stating the name of the Judge or Associate Judge who presided and the date and nature of the trial or hearing.

- 15.3 A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending.
- 15.4 The word "entered" should not be used in the line provided immediately above the Judge's or Associate Judge's signature to show the date on which a judgment, decree, or order is signed.

### RULES OF DECORUM

## 16.1 **Opening Procedure**

Immediately before the scheduled time for the first court session on each day, the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order. As the Judge or Associate Judge enters the courtroom, the bailiff shall state:

Lveryone	ise, piedse.
And while	everyone is still standing, the bailiff shall announce:
"The	District Court (Or Associate Judge's Court) of
Travis County, T	exas, is now in session, Judge
presiding. Be seat	ed, please."

## 16.2 Recess

When the Judge or Associate Judge announces a recess, the bailiff shall state:

"Everyone rise, please."

"Everyone rice place"

And all shall remain standing until the Judge or Associate Judge leaves the courtroom, whereupon the bailiff shall announce:

"This Court is recessed until \_\_\_\_\_ (a certain time.)"

In reconvening after a recess, the bailiff shall call the courtroom to order and request everyone to rise as the Judge or Associate Judge enters, and shall then state:

"Be seated, please."

Before a recess of a jury trial, the jury will be excused, and all other persons present shall remain seated while the bailiff conducts the jury from the courtroom into the jury room.

After a recess, the bailiff shall direct all jurors to the jury room and shall call the courtroom to order and request everyone to rise as the Judge enters, as in non-jury trials. After everyone is reseated, the jury shall be returned to the jury box from the jury room.

## 16.3 General Rules of Courtroom Conduct

All officers of the court except the Judge, Associate Judge and jurors, and all other participants except witnesses, who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the court to order, complete order should be observed.

In the courtrooms, there shall be:

- (a) no tobacco used;
  - (b) no chewing gum used by a witness or by any attorney while interrogating a witness or addressing the Judge or jury;
- (c) no reading of newspaper or magazines;
  - (d) no bottles, cups or beverage containers except court water pitchers and cups;
- (e) no edibles;
- (f) no propping of feet on tables or chairs;
- (g) no noise or talking that interferes with court proceedings.

The Judge, Associate Judge, the attorneys, and other officers of the court will refer to and address other court officers or participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names. The form of address toward an Associate Judge shall be the same as that used toward a District Court Judge ("Judge," "Your Honor").

The oath will be administered in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

All officers of the court shall dress appropriately for court sessions. Associate Judges shall wear judicial robes.

## 16.4 Conduct of Attorneys

- (a) Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Judge or Associate Judge;
- (b) Attorneys should advise their clients and witnesses of local Rules of Decorum that may be applicable;
- (c) All objections, arguments, and other comments by counsel shall be directed to the Judge, Associate Judge, or jury and not to opposing counsel;
- (d) While another attorney is addressing the Judge, Associate Judge, or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking;
- (e) Attorneys should not approach the bench without leave of court and must never lean on the bench:
- (f) Attorneys shall remain seated at the counsel tables at all times except:
  - (1) when the Judge or Associate Judge enters and leaves;
  - (2) when addressing the Judge, Associate Judge, or jury; and
  - (3) whenever it may be proper to handle documents, exhibits, or other evidence. (Leave of court is not required.)

- (g) Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the bailiff. Tables should not be moved during court sessions.
- (h) All rules of decorum for attorneys shall apply in appearances before an Associate Judge.

#### REFERRAL OF CASES TO ADR PROCEDURES

## 17.1 Purpose and Scope

This chapter shall direct the referral of cases to nonbinding alternative dispute resolution (ADR) procedures in the Travis County District Courts. Where applicable, it shall apply to (a) the mandatory referral to ADR procedures of cases as set forth in this chapter at section 17.4(a) below; (b) the mandatory referral to ADR procedures of dismissal notice cases, as set forth in Chapter 11.3 of these Local Rules; and (c) the discretionary referral of other cases to ADR procedures by a District Court, on the Court's own motion, on a motion by a party, or by agreement of the parties.

## 17.2 Authority for Referral of Cases to ADR Procedures

This chapter and Chapter 11 are based upon the judicial authority of the Travis County District Courts under the Constitution, statutes, and common law of Texas, and in particular upon the authority of (a) the Texas Alternative Dispute Resolution Procedures Act, Tex. Civ. Prac. & Rem. Code § 154.001, *et seq.*, providing for referral of cases to ADR procedures; and (b) Texas Rule of Civil Procedure 165a, providing for dismissal of cases for want of prosecution.

# 17.3 Policy for Referral of Cases by District Courts

It shall be the policy of the Travis County District Courts to encourage the peaceable resolution of disputes and the early settlement of pending litigation by identifying cases appropriate for referral to nonbinding ADR procedures pursuant to the rules set out in this chapter. Of course, parties are encouraged to first attempt to settle their cases without ADR.

#### 17.4 Cases to be Referred to ADR Procedures

- (a) All cases set for trial on the merits on the jury docket or on the more than half day non-jury docket [Local Rule 2.4(a)], including cases set before an Associate Judge, are automatically referred to pre-trial mediation, except as provided in section 17.5 below.
- (b) All cases in which notice of dismissal for want of prosecution has been given as set out in Chapter 11.3 of these rules are automatically referred to ADR procedures.
- (c) Any other case deemed appropriate, in the discretion of a District Court, may be referred to ADR procedures. In determining whether to refer a case to ADR procedures, the Court, may give consideration to such factors as the subject matter of the case, the amount in controversy, the complexity of the case, the number of parties, the interest of the parties in pursuing ADR procedures, the availability of ADR procedures, and the likelihood of settlement by ADR procedures.
- (d) Nothing in this chapter shall prevent a case from being submitted to ADR at any time by the agreement of the parties, by motion of one of the parties pursuant to Tex. Civ. Prac. & Rem. Code § 154.001 *et seq.*, or on the Court's own motion.

# 17.5 Cases Exempt or Excused from Referral to ADR Procedures

(a) The following types of cases are exempt from automatic referral to ADR procedures pursuant to this rule: 1) Administrative appeals challenging an agency order or rule; and 2) cases brought by the Department of Protective and Regulatory Services under the Family Code. In any exempt case a party may still file a motion to refer the case to ADR.

- (b) Cases are excused from automatic referral to ADR procedures when counsel for one or more of the parties files notice that the dispute was submitted to mediation or another ADR process prior to the date the setting was obtained.
- (c) If any party to a case files a motion objecting to the automatic referral to ADR and the court hearing the motion finds that there is a reasonable basis for the objection, the case will be excused from the referral. If all or most of the parties object to mediation, those objections will be weighed carefully. The Court, however, may still require mediation if the judge determines that there is not a reasonable basis for the objection. Special consideration may be given to whether or how cases are mediated in which there are allegations of domestic violence.

## 17.6 Notice and Objections

- (a) The party requesting the setting that automatically refers the case to ADR procedures shall be responsible for notifying all other parties of the referral. Where the referral is on the Court's own motion, the Court shall notify the parties of this determination.
- (b) Any party may, within ten days after receiving notice of the referral, file a written objection to it. A hearing may be requested by any party or may be set by the Court.

(c) A hearing requested pursuant to (b) above must be set and heard before the beginning of the docket announcement period for the date of trial (see Local Rule 3.2) or the objection to the referral is deemed waived. If an objection to the referral is waived or denied, parties must complete ADR before the announcement period for the date of trial to avoid being moved to the bottom of the list of cases set for the same date (see local rule 17.10(a)).

#### 17.7 Types of ADR Procedures

The following types of ADR procedures authorized by the Texas Alternative Dispute Resolution Procedures Act, as set forth in Tex. Civ. Prac. & Rem. Code § 154.024, or any appropriate variation of such procedures, may be utilized pursuant to this rule: (a) Mediation, (b) Mini-Trial, (c) Moderated Settlement Conference, (d) Summary Jury Trial, or (e) Arbitration.

#### 17.8 <u>Discovery</u>

The setting of a case and the corresponding referral to pre-trial mediation or other ADR procedure does not automatically stay discovery under the Texas Rules of Civil Procedure. Upon agreement of the parties or order of the court after notice and hearing, discovery may be stayed.

#### 17.9 Mediation

#### (a) Selection and Payment of a Mediator

(1) The ADR Coordinator shall compile and maintain a list of mediators qualified pursuant to the Texas Alternative Dispute Resolution Procedures Act, Tex. Civ. Prac. & Rem. Code § 154.001 et seq.

- (2) The parties and their attorneys shall be responsible for contacting the ADR Coordinator and cooperating in the selection of the mediator(s). The parties may select by agreement any mediator who is on the list of mediators maintained by the ADR Coordinator's office or who is otherwise qualified pursuant to the Texas Alternative Dispute Resolution Procedures Act, Tex. Civ. Prac. & Rem. Code § 154.001 et seq. If the parties do not agree on a mediator they must either request the ADR Coordinator to make a random selection of mediators from that list or request the Court to assign a mediator.
- (3) If the parties request the ADR Coordinator to select the mediator, the ADR Coordinator shall give consideration to the nature of the case and the areas of practice, experience, and expertise of the prospective mediators.
- (4) Upon selection of one or more mediators, the ADR Coordinator shall send the name(s) of the mediators to each party or counsel of record in the case. Any party may challenge a mediator for bias, conflict of interest, or other appropriate cause. In the event such challenge cannot be resolved by the ADR Coordinator and the parties by substitution of another mediator or by other agreement, a dissatisfied party may file a motion with the Court showing good cause why the mediation should not proceed with the designated mediator(s).

(5) Payment of the mediator shall be by agreement of the parties and the mediator. Failing such an agreement, the Court shall set a fee pursuant to statute. If one or more of the parties objects to paying a share of the cost of mediation, and the Court finds a reasonable basis for that objection, the Court may instruct the ADR Coordinator to assist the parties in the selection of a mediator willing to perform mediations on a nominal fee or pro bono basis. If the parties are unable to obtain a nominal cost or pro bono mediation they will report this fact to the ADR Coordinator and to the court that heard the objection.

#### (b) Authority to Settle at Mediation

- (1) All parties participating in mediation pursuant to this chapter shall be prepared to negotiate openly and knowledgeably in a mutual effort to reach a fair settlement.
- (2) Each party, or a person with authority to settle the case on a party's behalf, must be present during mediation, unless upon motion the presence of such a person or party has been excused by order of the court.
- (3) If a party is the state or a political subdivision, the party shall have present an agent whose position is commensurate with the premediation demand or offer and whose recommendation to approve a mediated settlement will be meaningful to the person or body whose approval of the mediated settlement is required.

If a party thinks it unreasonable to have a person at the mediation as required by (2) or (3), a premediation conference shall be held with the mediator to negotiate who will be present at the mediation. If a party thinks that some other party has not designated an agent in compliance with this section, a premediation conference shall be held with the mediator to negotiate who will be present at the mediation. If attendance cannot be negotiated, a motion may be filed with the court to resolve the issue.

#### (c) **Before the Mediation**

- The parties and their attorneys shall be responsible for designating a date and time for the mediation. If the parties are unable to agree upon a date, the ADR Coordinator shall set a date and time for the mediation and notify the parties in writing, but the parties shall remain responsible for compliance with the time limits set in Chapter 11 or the requirements or time limits of any court order.
- At least 14 days before the mediation, unless otherwise agreed, the Plaintiff shall provide the mediator and all other parties a brief letter outlining their premediation demand and designating their agent for purposes of the ADR procedures, pursuant to section 17.9(b)(2) or (3) of this chapter.
- (3) After receiving the premediation demand letter, and at least 7 days before the date of mediation, unless otherwise agreed, all other parties shall provide the mediator and other parties with a brief letter outlining their offer and disclosing their agents pursuant to section 17.9(b)(2) or (3) of this chapter.

(4) The parties shall agree in advance upon the minimum amount of time they will commit to mediation or the parties may agree in advance to place that decision in the hands of the mediator. The minimum amount of time shall be commensurate with the dispute. The *Court* expects all mediators and all parties to commit sufficient time. If the parties cannot agree, a premediation conference will be held with the mediator to negotiate the time. If time cannot be negotiated, a motion may be filed with the court to resolve the issue.

#### (d) **Termination of the Mediation**

The mediation shall be terminated: 1) by settlement; 2) by declaration of the mediator of an impasse; or 3) by the passage of the time agreed upon in advance for mediation, though the parties can agree to extend the time.

#### (e) **After the Mediation**

Within five days following the conclusion of the mediation, the mediator shall file the ADR Certification Form promulgated by the ADR Coordinator. The mediator shall not indicate the terms of any settlement or otherwise elaborate on the proceedings.

#### 17.10 Timing and Announcing of ADR

(a) The mediation or other ADR procedure should be completed not less than 45 days prior to the beginning of a jury trial, or 15 days prior to the beginning of a non-jury trial. Upon agreement of the parties or order of the court, the time for completion may be changed. Failure to comply with the time prescribed in this paragraph may result in the case being moved to the bottom of the list of cases set for the same date, as in Local Rule 3.4, or may result in striking the setting or other appropriate order.

(b) When making an announcement for either a jury setting or a more than one-half day setting during the announcement period as set out in Local Rules 3.1 and 3.2, the attorneys representing all parties shall include in their announcement of time a statement as to whether or not mediation or another approved ADR procedure has been completed.

#### 17.11 Confidentiality of ADR

As provided in Tex. Civ. Prac. & Rem. Code § 154.073, a communication relating to the subject matter of any civil or criminal dispute made by a participant in an ADR procedure is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding. Likewise, any nonbinding decision on the merits or any record made at an ADR procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceeding relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute. However, an oral communication or written material used in or made a part of an ADR procedure is admissible or discoverable if it is admissible or discoverable independent of the ADR procedure.

## 17.12 ADR Filings and Docket

- (a) All notices, motions, and reports pertinent to the ADR procedure shall be filed with the District Clerk, with copies sent to the ADR Coordinator.
- (b) An ADR docket shall be held at a time specified by the court administrator to hear all motions presented under this chapter.

#### **RULE 103 ORDERS**

- **18.1** This rule is adopted pursuant to and in compliance with Texas Rule of Civil Procedure 103.
- 18.2 The District Clerk shall provide to any person upon his or her request (1) an application in the form set forth in this chapter for authority to serve citations and other notices and (2) a copy of this chapter. There are two types of applications, either applications for blanket authorization or applications to authorize service in an individual case. Completed applications for blanket authority shall be submitted to the Local Administrative Judge. Completed applications for authority in an individual case shall be presented during the uncontested docket.
- 18.3 If the Local Administrative Judge finds the applicant for blanket authority qualified, he or she shall sign and file with the District Clerk an order in the form set forth in this chapter authorizing the applicant to serve citation and other notices. When making such an order, the Local Administrative Judge is authorized to act for each and every court. The District Clerk shall maintain all such applications and orders in a central file. The orders shall be numbered chronologically.
- 18.4 When a return is required, a person authorized to serve citation and other notices shall state in his or her return that he or she is (1) not less than eighteen years of age; (2) not a party to or interested in the outcome of the suit; and (3) authorized by written order to serve citations and other notices. The return shall also state the number of such blanket written order.

- 18.5 A person authorized to serve citation and other notices has no right to or interest in continued authorization. This chapter may be amended or repealed at any time. The Local Administrative Judge may vacate any order made under this chapter at any time.
- **18.5** All orders for blanket authority shall expire two years from the date of such order.

IN RE RULE 103	§	THE DISTRICT COURTS
APPLICATION	§	
	§	TRAVIS COUNTY, TEXAS
	<u>ORDER</u>	
On this day was preser	nted to the Local Ada	ministrative Judge, acting for
each and every District (	Court of Travis C	county, the application of
	for	authority pursuant to Texas
Rule of Civil Procedure 103 an		
in the District Courts of Travis	s County. The Court	has reviewed the application
and finds the applicant qu	•	
11 1		is
authorized to serve citation a		
County in all suits in which the	e applicant is not a pa	arty or otherwise interested in
the outcome of the suit.		- y
SIGNED this day	of	20
brarved this day	OI	, &0

ORDER NO. \_\_\_\_\_

Local Administrative Judge

# **RULE 103 APPLICATION**

Name	
Business Address	
Business Telephone	
Business Telecopier	
	AFFIDAVIT
STATE OF TEXAS	§
COUNTY OF TRAVIS	§
convicted of any felony of felony or crime of mora citations and notices in co Chapter 18 of the Local R	less than eighteen years of age. I have never been or of any crime of moral turpitude and no charge of a l turpitude is pending against me. I will serve all ampliance with the law. I have read and understand ules of the District Courts of Travis County. I will not n any suit in which I am a party or am otherwise
	Affiant's Signature
subscribed to the foregoing oath stated that the statement	dersigned authority, on this day personally appeared, known to me to be the person whose name is ng affidavit, who being by me first duly sworn, upon tents contained therein are true and correct.  ID SWORN TO before me this day of
	Notary Signature

#### ELECTRONICALLY TRANSMITTED COURT DOCUMENTS

- **19.1** The following rules govern the procedure for the District Clerk of Travis County ("the Clerk") to receive and file electronically transmitted court documents.
- **19.2** The Clerk is authorized to accept for filing via electronic transmission any document, which might be filed in a court action except:
  - (a) Returns of service on issuances
  - (b) Bonds
  - (c) Signed orders or judgments
- 19.3 Documents electronically transmitted for filing will be received by the Clerk on a plain paper facsimile and printed by a laser printer, thereby rendering the copy of archival quality. No document printed on thermal paper shall be filed.
- 19.4 No document electronically transmitted shall be accepted by the Clerk for filing until court costs and fees have been paid. Authorizing the Clerk to charge by credit card constitutes payment. Court costs and fees may be paid by MasterCard or any other credit card approved by the Clerk. The Clerk shall confirm the charge authorization and note the authorization code on the cost receipt. If the Clerk rejects a filing for nonpayment of fees, the Clerk will notify the sender as soon as practicable.

- 19.5 A fee schedule for electronic filing shall be adopted annually by the Clerk and approved by the District Courts. The Clerk may prescribe a reasonable schedule of additional charges for filing documents that do not initially conform to these rules or to the Clerk's policies and procedures for fax filings.
- **19.6** An electronically transmitted document accepted for filing will be recognized as the original record for file or for evidentiary purposes when it bears the Clerk's official date and time file stamp.
- 19.7 Every document electronically transmitted for filing shall conform to the requirements for filing established by the Texas Rules of Civil Procedure, i.e., shall be on paper measuring approximately 8-1/2 x 11 inches, shall be signed individually by the party or the party's attorney of record, and shall contain that individual's State Bar of Texas identification number, if any, address, telephone number and telecopier number. The quality of the original hard copy shall be clear and dark enough to transmit legibly.
- **19.8** The sender shall maintain the original of the document with original signature affixed as required by § 51.806, Texas Government Code.
- **19.9** A cover sheet must accompany every transmission which shall:
  - (a) clearly identify the sender, the documents being transmitted, and the number of pages;
  - (b) have clear and concise instructions concerning issuance or other request; and
  - (c) have complete information on the charge authorization for court costs and fees.

- **19.10** The Clerk upon receipt of an electronically transmitted document shall verify the completeness of the transmission.
- **19.11** After filing an electronically transmitted document the Clerk will electronically transmit to the sender an acknowledgment of the filing, together with cost receipt, if any.
- **19.12** No citation or writ bearing the official seal of the court may be transmitted electronically.
- imprinted by the Clerk's fax machine, with the date and time of receipt.

  The date and time imprinted by the Clerk's fax machine on the last page of a document will determine the time of filing. The Clerk shall affix the Clerk's official date and time stamp to the document. The official date and time stamp shall conform to the date and time imprinted on the last page of the document by the Clerk's fax machine. Receipt by the Clerk's fax machine of the electronic transmission of a document form with a proper charge authorization constitutes filing.

# RULES GOVERNING THE RECORDING AND BROADCASTING OF COURT PROCEEDINGS IN THE CIVIL DISTRICT COURTS OF TRAVIS COUNTY

Pursuant to Rule 18c(a) of the Texas Rules of Civil Procedure, the following Rules govern the recording and broadcasting of court proceedings before the civil District Courts of Travis County, and their Masters (Associate Judges) and Referees.

#### 20.1 Policy

The policy of these Rules is to allow media coverage of public civil court proceedings to facilitate the free flow of information to the public concerning the judicial system, to foster better public understanding about the administration of justice, and to encourage continuing legal education and professionalism by lawyers. These Rules are to be construed to provide the greatest access possible while at the same time maintaining the dignity, decorum and impartiality of the court proceeding.

#### 20.2 Definitions

Certain terms are defined for purposes of these Rules as follows:

- **20.2.1 Court.** "Court" means the particular court, Master (Associate Judge) or Referee in which the proceeding will be held.
- **20.2.2 Media Coverage.** "Media coverage" means any visual or audio coverage of court proceedings by a media agency.

- **20.2.3 Media or Media Agency.** "Media" or "Media agency" means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, inhouse publication, professional journal, or other news reporting of news gathering agency.
- **20.2.4 Visual Coverage.** "Visual coverage" means coverage by equipment, which has the capacity to reproduce or telecast an image, and includes still and moving picture photographic equipment and video equipment.
- **20.2.5 Audio Coverage.** "Audio coverage" is coverage by equipment, which has the capacity to reproduce or broadcast sounds, and includes tape and cassette sound recorders, and radio and video equipment.

# 20.3 Media Coverage Permitted

20.3.1 Media coverage is allowed in the courtroom only as permitted by Rule 18c of the Texas Rules of Civil Procedure and these Rules.

- 20.3.2 If media coverage is of investiture or ceremonial proceedings as allowed by Rule 18c(c) of the Texas Rules of Civil Procedure, permission for, and the manner of such coverage, are determined solely by the Court, with or without guidance from these Rules. If media coverage is for other than investiture or ceremonial proceedings, that is, under Rule 18c(a) or (b) of the Texas Rules of Civil Procedure, the provisions of these Rules shall govern.
- 20.3.3 Media coverage under Rule 18c(a) and (b) of the Texas Rules of Civil Procedure is permitted only on written order of the Court. A request for an order shall be made on the form included in these Rules. The following procedure shall be followed, except in extraordinary circumstances and only if there is a finding by the Court that good cause justifies a different procedure: (i) the request should be filed with the District Clerk with a copy delivered to the Court, Court Administrator, all counsel of record and, where possible, all parties not represented by attorneys, and (ii) such request shall be made in time to afford the attorneys and parties sufficient time to confer, to contact their witnesses and to be fully heard by the Court on the questions of whether media coverage should be allowed and, if so, what conditions, if any, should be imposed on such coverage. Whether or not consent of the parties or witnesses is obtained, the Court may in its discretion deny, limit or terminate media coverage. In exercising such discretion the Court shall consider all relevant factors, including but not limited to those listed in Local Rule 20.3.5 below.

- 20.3.4 If media coverage is sought with consent as provided in Rule 18c(b) of the Texas Rules of Civil Procedure, consent forms adopted by the Court shall be used to evidence the consent of the parties and witnesses. Original signed consent forms of the parties shall be attached to and filed with the request for order. Consent forms of the witnesses shall be obtained in the manner directed by the Court. No witness or party shall give consent to media coverage in exchange for payment or other consideration, of any kind or character, either directly or indirectly. No media agency shall pay or offer to pay any consideration in exchange for such consent.
- 20.3.5 If media coverage is sought without consent, pursuant to Rule 18c(a) of the Texas Rules of Civil Procedure, the decision to allow such coverage is discretionary and will be made by the Court on a case-by-case basis. Objections to media coverage should not be conclusory but should state the specific and demonstrable injury alleged to result from media coverage. If the Court denies coverage, it shall set forth in its order the findings upon which such denial is based. In determining an application for coverage, the Court shall consider all relevant factors, including but not limited to:
  - (a) the type of case involved;
  - (b) whether the coverage would cause harm to any participants;
  - (c) whether the coverage would interfere with the fair administration of justice, advancement of a fair trial, or the rights of the parties;

- (d) whether the coverage would interfere with any law enforcement activity;
- (e) the objections of any of the parties, prospective witnesses, victims, or other participants in the proceeding of which coverage is sought;
- (f) the physical structure of the courtroom and the likelihood that any equipment required to conduct coverage of proceedings can be installed and operated without disturbance to those proceedings or any other proceedings in the Courthouse;
- (g) the extent to which the coverage would be barred by law in the judicial proceeding of which coverage is sought; and
- (h) the fact that any party, prospective witness, victim, or other participant in the proceeding is a child, to which fact the Court shall give great weight.

# 20.4 Media Coverage Prohibited

20.4.1 Media coverage of proceedings held in chambers, proceedings closed to the public, and jury selection is prohibited. Audio coverage and close-up video coverage of conferences between an attorney and client, witness or aide, between attorneys, or between counsel and the Court at the bench is prohibited.

20.4.2 Visual coverage of potential jurors and jurors in the Courthouse is prohibited except when in the courtroom the physical layout of the courtroom makes it impossible to conduct visual coverage of the proceedings without including the jury, and the Court so finds. In such cases visual coverage is allowed only if the jury is in the background of a picture of some other subject and only if individual jurors are not identifiable.

#### 20.5 **Equipment and Personnel**

The Court may require media personnel to demonstrate that proposed equipment complies with these Rules. The Court may specify the placement of media personnel and equipment to permit reasonable coverage without disruption to the proceedings. Unless the Court in its discretion and for good cause orders otherwise, the following standards apply:

- **20.5.1** One television camera and one still photographer, with not more than two cameras and four lenses, are permitted.
- 20.5.2 Equipment shall not produce distracting sound or light. Signal lights or devices which show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden lighting changes shall not be used.

- 20.5.3 Existing courtroom sound and lighting systems shall be used without modification. An order granting permission to modify existing systems is deemed to require that the modifications be installed, maintained, and removed without public expense. Microphones and wiring shall be unobtrusively located in places approved by the Court and shall be operated by one person.
- **20.5.4** Operators shall not move equipment or enter or leave the courtroom while the Court is in session, or otherwise cause a distraction. All equipment shall be in place in advance of the proceeding or session.
- **20.5.5** Identifying marks, call letters, words and symbols shall be concealed on all equipment. Media personnel shall not display any identifying insignia on their clothing.

## **20.6** Delay of Proceedings

No proceeding or session shall be delayed or continued for the sole purpose of allowing media coverage, whether because of installation of equipment, obtaining witness consents, conduct of hearings related to the media coverage or other media coverage questions. To assist media agencies to prepare in advance for media coverage, and when requested to do so: (i) the Court will attempt to make the courtroom available when not in use for the purpose of installing equipment; (ii) counsel (to the extent they deem their client's rights will not be jeopardized) should make available to the media witness lists; (iii) and the Court Administrator will inform the media agencies of settings or proceedings.

# 20.7 Pooling

If more than one media agency of one type wish to cover a proceeding or session, they shall make pool arrangements. If they are unable to agree, the Court may deny media coverage by that type of media agency.

## 20.8 Official Record

Films, videotapes, photographs or audio reproductions made in the proceeding pursuant to these Rules shall not be considered as part of the official court record.

	§	IN THE DISTRICT COURT OF
VS.	§	TRAVIS COUNTY, TEXAS
	8	IUDICIAL DISTRICT

NO. \_\_\_\_\_

# REQUEST FOR ORDER TO ALLOW MEDIA COVERAGE WITH CONSENT OF PARTIES OR WITNESSES

Pursuant to Rule 18c of the Texas Rules of Civil Procedure and the Rules Governing the Recording and Broadcasting of Court Proceedings in the Civil District Courts of Travis County (Chapter 20 of the Local Rules of Civil Procedure and Rules of Decorum for the District Courts of Travis County) (Local Rules), I request permission to install equipment for the purpose of media coverage of the above described case as follows:

1.	Courtroom:
2.	Equipment:
3.	Dates of Coverage:

I, individually, and on behalf of the personnel of the media agency I represent and all media personnel who participate in media coverage through any pooling agreement, understand and agree that:

- All media personnel covering the proceedings will comply with the provisions of Rule 18c of the Texas Rules of Civil Procedure and the Local Rules.
- 2. Written consent of each party has been obtained; true copies of all completed consent forms are attached to this request.

- 3. There will be no audio or visual coverage of the testimony of any witness unless consent of that witness has been obtained in the manner required by the Court and filed with the District Clerk, with a copy delivered to the trial court.
- 4. Permission may be withdrawn by the Court at any time pursuant to the Local Rules, at which time media coverage will immediately cease.

20 at	,m.
	Individual - signature
	Individual - printed
	Name of Media Agency
	Position
	Address

	N	O
	§	IN THE DISTRICT COURT OF
VS.	§	TRAVIS COUNTY, TEXAS
	§	JUDICIAL DISTRICT
<u>]</u>	REQUEST FOR ORI	DER TO ALLOW MEDIA COVERAGE
	WITHOUT CONS	SENT OF PARTIES OR WITNESSES
Pursi	uant to Rule 18c of	the Texas Rules of Civil Procedure and the Rules
Governing	the Recording and	Broadcasting of Court Proceedings in the Civil
District Co	urts of Travis Co	unty (Chapter 20 of the Local Rules of Civil
Procedure a	nd Rules of Decoru	m for the District Courts of Travis County) (Local
Rules), I re	quest permission t	to install equipment for the purpose of media
coverage of	the above described	d case without consent of the parties or witnesses,
as follows:		
	1. Courtro	om:
	2. Equipm	ent:
	3. Dates of	f Coverage:
I, inc	dividually, and on	behalf of the personnel of the media agency I
represent a	nd all media persoi	nnel who participate in media coverage through
any pooling	agreement, unders	tand and agree that:
1.	All media person	nel covering the proceedings will comply with the
provisions o	of Rule 18c of the Te	xas Rules of Civil Procedure and the Local Rules.
2.	Permission may b	e withdrawn by the Court any time pursuant to
the Local Ru	ıles, at which time n	nedia coverage will immediately cease.
The o	original of this requ	est was filed with the District Clerk, with a copy
delivered to	the trial court an	d the Court Administrator, on

\_\_\_\_\_, 20\_\_ at \_\_\_\_\_.m.

Individual - signature	
Individual - printed	
Name of Media Agency	
Position	
Address	
Telephone Number	

# LOCAL RULES OF ADMINISTRATION FOR THE DISTRICT AND STATUTORY COUNTY COURTS

Except for those matters arising under Titles 1 and 5, of the Texas Family Code, any civil case filed in the District Courts or the County Courts at Law of Travis County may be heard by any Judge of a District Court or a County Court at Law.

When assigning cases on the Central Settings Docket, the Court Administrator of the District Courts shall ask each Judge of the County Courts at Law hearing civil cases if he or she is available for assignment, and if the Judge is, then the Court Administrator may assign the Judge to hear any matter, whether final or preliminary.

The Local Administrative District Judge may assign all or part of a District Court case to a particular County Court at Law Judge pursuant to Rule 2.6 of the Local Rules of the District Courts.